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MISCELLANY.

The Offence of War Piracy.—Now that the Admiralty has announced its intention of refusing to regard the captured crew of the German Submarine U-8, which is suspected of having attacked a hospital ship, as prisoners of war, and has decided to treat them as "Prisoners awaiting trial," questions arise as to the tribunal before which they can be sent for trial, and the offence for which they may be tried. There is no provision in the Naval Discipline Act, 1866 (now under revision by Parliament), which expressly subjects to the jurisdiction of naval courts-martial prisoners of war captured at sea, except in the case of spies and persons endeavouring to seduce from their allegiance any person subject to the Act. On the other hand, it is clear that our ordinary civil Courts have power to try pirates and murderers for offences committed on the high seas—the former at common law as extended by statute, the latter under the Territorial Waters Jurisdiction Act, 1878. There are two forms of piracy known to our law, piracy jure gentium, and piracy under municipal law. The former was cognizable at common law only in the Admiralty Court (2 Hale, 370), but three statutes, of which the latest is the Criminal Law Act, 1827, have given the ordinary criminal courts jurisdiction over it, and the aggravated offence of "piracy with violence" has also been created by statute (7 Will. 4; 1 Vict., cap. 88, s. 2). It does not appear that the offense alleged against the German crew is in fact covered by any statute; therefore the indictment must be either for murder (in which case, of course, a definite homicide or attempted homicide would have to be proved), or else for piracy jure gentium—in which case a violent attack on the ship would be enough, although it would be open to the defendants to set up the defence, "lawful act of warfare under the commission of a foreign Sovereign." The indictment of piracy jure gentium, according to Archbold (p. 619), would run in the following terms:

"Central Criminal Court to wit: The jurors for our Lord the King upon their oaths present that A. B., C. D., etc., on the — day of —, with force and arms, upon the high seas, to wit, in and on board of a certain ship, known as —, in a certain place upon the high seas then being [here the position is given] in and upon certain mariners .... in the peace of our God and our Lord the King, then and there being, did piratically and feloniously make an assault, and then the said mariners in bodily fear and danger of their lives on the high sea aforesaid did put, and the said ship .... piratically, feloniously, and violently did steal, take, and carry away against the peace of our Lord the King, his Crown and Dignity."

This indictment is framed from a very famous pleading, that in Rex *v.* Captain Kidd (14 State Trials, 147). An indictment for "pi-

racy with violence" is also given in Archbold (at p. 627); it runs exactly as the preceding form, but with the addition of the words: "and that the defendant, with intent to commit [or 'at the time of' or 'immediately before,' or 'immediately after the committing'] such piracy as aforesaid, in and upon one, X.Y., then and there being on board the said ship, feloniously did make an assault with intent on him, the said X.Y., feloniously, wilfully, and of malice aforethought, to kill and murder .... against the form of the statute in that behalf," etc. This latter indictment was used in Regina *v.* Jones (11 Cox. 393). It may be interesting to mention here that the classic case of Captain Kidd led to the addition of Article 3 to the impeachment of Lord Chancellor Somers, which charged him with aiding and abetting piracy. He had given Captain Kidd a commission to command a privateer for the destruction of West Indian pirates, and the distribution of the prize money among the capitalists who financed the vessel—one of whom was said to have been Lord Somers himself; but Kidd found it more profitable to turn pirate instead, and for this offence he was duly indicted and punished. Of course, Lord Somers was acquitted by his peers.—London Law Journal.

Criminal Borrowing of an Automobile.—It is well-settled law that a person does not commit larceny when he borrows the chattel of another without his consent and against his will, but merely for a temporary purpose and with the intent of returning it. A boy may steal a ride without stealing the donkey. He commits a trespass and the civil wrong of "conversion," but not the crime of larceny, unless he does some act to deprive the owner permanently of his property in the donkey. Even if he turns it loose at the end of the ride there is no larceny; but if he backs it into a ditch in order to kill it or turns it loose at a place so remote that he cannot expect it to find its way home, then it shows an intent to deprive the owner of the property in the animal, and not merely of the temporary use of it; and in the latter cases he is guilty of larceny. Where a youth unlawfully takes a motor-car for a ride and returns it, the same principle applies so far as the car is concerned; a temporary borrowing is not larceny. But here a refinement arises. He uses petrol in running the car; this petrol is a chattel belonging to the owner of the car; that owner is permanently deprived of the petrol. Hence the borrower can be convicted of stealing the petrol.—English Law Times, July 18, 1914.